

DEPARTMENT OF COMMUNITY SERVICES AND DEVELOPMENT

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**PROGRAM GUIDANCE****PG 11-03**

Issue Date: May 3, 2011

Expiration Date: Until Rescinded or upon addition to contract

TO: Energy Program private non-profit Contractors/Service Providers

SUBJECT: Eligibility of Non Qualified Aliens

PURPOSE: This guidance explains and clarifies procedures and requirements for determining the eligibility of clients who are non-qualified aliens.

REFERENCE: Guidance issued by CSD on October 10, 2008, together with appended "Guidance on the interpretation of 'Federal Public Benefits' Under the Welfare Reform Law," issued by the U.S. Administration for Children and Families (ACF), LIHEAP Information Memorandum, Transmittal No. LIHEAP-IM-98-25, dated August 6, 1998.

EFFECTIVE DATE OF GUIDANCE: June 1, 2011

Guidance: Non-profit service providers should continue to follow the guidance issued by CSD in its October 10, 2008 correspondence. Services should not be provided when non-eligibility based on alien status is known with certainty.

Background:

- "Section 401 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA) *prohibits* [emphasis added] non-qualified aliens from receiving any 'Federal public benefits.'" ACF has determined that LIHEAP services qualify as a Federal public benefit."
- With certain specified exceptions, "...LIHEAP grantees are required to implement the verification requirements, in order to ensure that non-qualified aliens do not receive LIHEAP benefits."
- Non-profits are exempt from the verification requirements. "Under Section 432(d) of PRWOA [as amended] providers who are nonprofit charitable organizations are not required to determine, verify or otherwise require proof of eligibility of any applicant for benefits..."

Procedure or
Action

Required:

Federal guidance is clear that non-qualified aliens may not receive LIHEAP benefits. Therefore, if the non-profit provider is made aware of the client's ineligibility, as for example the client declares that he/she is not qualified (documented), then to provide service would be a violation of Federal law. However, suspicion or doubt regarding the citizenship status of an applicant does not require the non-profit service provider to investigate or seek clarity with regard to status. The provider need not go beyond established application procedures that are compliant with CSD and Federal guidance.

Federal guidance is also clear that non-profit service providers have no obligation to verify, i.e. investigate or research an applicant's alien status. It is only when the undocumented status or non-eligibility of an applicant becomes known by other means such as a declaration made by the applicant or the applicant presents documented proof that they are an undocumented alien; the nonprofit provider must deny service to an unqualified applicant. Accordingly, even if a member of the household can verify legal citizenship status, but the applicant is undocumented, the application must be denied. The application cannot be submitted in the name of a minor.

Contact:

Please contact your assigned Field Representative with any questions or concerns regarding this guidance.